

Application Serial No. 10/657,583
Reply to Office Action dated January 7, 2005

REMARKS/ARGUMENTS

This paper is filed in response to the first Office Action received in the above-identified U.S. patent application. The Office Action sets forth a seven-way restriction between the claimed subject matter in this application, i.e., the Examiner is holding that the application contains claims directed to seven distinct inventions as set forth on page 2 of the Office Action. More specifically, the Examiner has distinguished the various apparatus set forth in claim sets 1-4, 5-10, 11-14 and 15-17 both individually and with respect to the insert or coupon of claims 18-22, the method of placing an insert in a taco shell as set forth in claims 23-27 and the method of nesting taco shells as set forth in claims 28-31. In general, it is respectfully submitted that many of these inventions are not distinct in a manner which justifies restricting the claims of the present application seven different ways. Therefore, for at least the reasons set forth below, the Applicant respectfully traverses the restriction requirement.

Initially, it is respectfully submitted that many of the invention identification statements set forth on page 2 of the Office Action are misleading. For instance, the Examiner indicates that claims 11-14 are directed to a distinct invention and, more particularly, "drawn to a conveyor..." These claims are actually directed to an apparatus for nesting individual taco shells to form a nested group of taco shells. It is true that the apparatus includes a nester conveyor. However, it is respectfully submitted that classifying the invention as a conveyor is misleading and correspondingly fails to recognize the relevant subject matter therein in relation to the other claimed structure. For instance, these claims are directed to nesting individual taco shells to form a group of nested taco shells, while claims 15-17 are simply directed to additional structure of the apparatus for aligning the nested group of taco shells. Clearly, the Applicant has merely broken down individual portions of the overall apparatus or assembly in setting forth these individual claims. The same is true with respect to the structure for inserting an insert in the nested group of taco shells as set forth in claims 5-10. Finally, the overall assembly includes structure for folding the insert prior to inserting the same into the nested group of taco shells. Therefore, it is respectfully submitted that all of these

Application Serial No. 10/657,583
Reply to Office Action dated January 7, 2005

features are actually sub-combination portions of the overall combined apparatus or assembly.

To further bring out this important point, the Applicant has inserted herewith new independent claim 32 which represents a combination claim directed to the overall assembly which includes a first apparatus to fold the insert directly corresponding to that set forth in claim 1, an apparatus for nesting taco shells directly corresponding to that set forth in claim 11, an apparatus for placing an insert within a nested group of taco shells directly corresponding to that set forth in claim 5 and an apparatus for aligning the nested taco shells directly corresponding to that set forth in claim 15. Therefore, it is respectfully submitted that claim 32 represents a combination and linking claim including all the limitations and particulars of independent claims 1, 5, 11 and 15. To this end, each of claims 1-4, 5-10, 11-14 and 15-17 represent sub-combination claims of the overall combination set forth in claim 32. As the overall combination claim requires all the particulars of the sub-combination claims, the sub-combination claims cannot be properly restricted from combination claim 32 in accordance with M.P.E.P. guidelines.

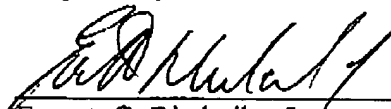
Although the Applicant would desire the Examiner to also review the claims drawn to the coupon, the method for placing an insert in an open end of a taco shell as set forth in claims 23-27 and the method of nesting individual taco shells to form a nested group of taco shells as set forth in claims 18-31, to advance the prosecution in this application, the Applicant has canceled claims 18-31. Of course, the Applicant reserves the right to file one or more divisional applications to this subject matter during the pendency of the present application.

Based on the manner in which the present application has been amended, it is respectfully submitted that the basis for the restriction requirement as previously set forth are no longer applicable. That is, the claims now are covered by combination/sub-combination such that examination of claims 1-17 and 32 are respectively elected. If the Examiner should have any concerns regarding the manner in which this restriction

Application Serial No. 10/657,583
Reply to Office Action dated January 7, 2005

requirement has been addressed, he is cordially invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,


Everett G. Diederiks, Jr.
Attorney for Applicant
Reg. No. 33,323

Date: February 7, 2005
DIEDERIKS & WHITELAW, PLC
12471 Dillingham Square, #301
Woodbridge, VA 22192
Tel: (703) 583-8300
Fax: (703) 583-8301